

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 247

This is an advisory opinion in response to a letter requesting advice from the Ethics Commission as to whether a conflict of interest exists between a City officer's ("A") outside service as chairman of the board of a private nonprofit corporation ("XYZ").

The Commission understands the facts relative to this inquiry to be as follows:

A is a City officer. Prior to accepting that position A had begun serving as Chairman of the Board of XYZ, a nonprofit organization established for the purpose of providing for the development of a continuous care retirement community in Hawaii.

XYZ is in the process of entering into an agreement with a new developer to bring that project to fruition after having terminated its agreement with the initial developer. Any new City permits that will be required for the project will be handled by the developer. A can anticipate no reason that A personally would have to represent the XYZ Board before any City agency for any purpose.

The ethical question presented is whether A's service as Chairman of the Board of XYZ would tend to impair A's independence of judgment or whether it is incompatible with the proper discharge of A's duties as a City officer.

The general rule in relation to your question is found in Section 11-102(c) of the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.) which states in pertinent part:

No elected or appointed officer or employee shall...[e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Furthermore, the Revised Ordinances of Honolulu 1990 make clear in Section 3-8.1 that service as a director of a not-for-profit business constitutes a financial interest.

Based on the evidence presented, the Commission finds that no conflict of interest exists between A's service as Chairman of the Board of XYZ and A's City position, with the understanding that the following conditions will be met: (1) A's name will not appear on the letterhead of XYZ as long as A works for the City; (2) A will not act on any issue involving XYZ if it should come before the Department in which A works, but will delegate all such matters; and (3) A will not attempt to influence any director of a City agency to act favorably on any matter related to XYZ that might come before his or her agency.

Dated: March 9, 1995

SAMUEL L. DOMINGO
Chair, Ethics Commission